

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RAFAEL GUERRERO MARIN, <i>individually and on behalf of others similarly situated,</i>	:
Plaintiff,	20-CV-8607 (JMF) (BCM)
-v-	:
NELSON SERVICES SYSTEMS, INC. d/b/a NELSON SERVICES, et al.,	:
Defendants.	:
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ORDER

JESSE M. FURMAN, United States District Judge:

Plaintiffs filed their Complaint on October 15, 2020. ECF No. 1. Defendants were served with a copy of the summons and Complaint on October 19, 2020, and proof of service was filed with the Court. ECF Nos. 14, 15, 16, 17. After Defendants failed to timely answer or otherwise respond to the Complaint, the Court directed Plaintiffs to file any motion for default judgment no later than December 15, 2020 and ordered that any opposition should be filed no later than December 22, 2020. ECF No. 32. The Court also scheduled a hearing on why an order should not be issued granting a default judgment against Defendants on January 21, 2021. *Id.* The Court further noted that “[i]n the event that any Defendant appears or opposes the motion for default judgment prior to that date, the parties shall prepare to treat that conference as the initial pretrial conference with respect to any such appearing Defendant. That is, if any Defendant appears, opposes the motion, or seeks a *nunc pro tunc* extension of time to respond to the complaint, then the parties — including any such appearing Defendant — shall follow the pre-conference procedures specified in the Court’s Order of October 16, 2020 including by submitting a joint letter addressing certain topics and a proposed case management plan no later than the Thursday prior to the conference and by participating in an early mediation session at least two weeks prior to the conference.” *Id.* Plaintiffs filed a motion for default judgment on December 15, 2020, which remains pending. ECF No. 34.

On January 7, 2021, counsel entered a notice of appearance on behalf of “the above-named Defendants.” ECF Nos. 39, 40. Although the notice of appearance appears to be on behalf of all of the Defendants, the docket currently only reflects appearances by Nelson Realty Services Inc., d/b/a Nelson Realty and Nelson Gisbert a/k/a Nelson, Jr.

In light Defendants’ appearance and the Second Circuit’s “strong preference for resolving disputes on the merits,” *New York v. Green*, 420 F.3d 99, 104 (2d Cir. 2005) (internal quotation marks omitted), Plaintiffs’ motion for default judgment is DENIED. Defendants shall answer or otherwise respond to the Complaint (with which they were served on October 19, 2020), **no later**

than January 21, 2021. The hearing currently scheduled for January 21, 2021 is CANCELLED and the initial pretrial conference is REINSTATED and adjourned to **February 25, 2021 at 3:00 p.m.** The parties shall follow the pre-conference procedures specified in the Court's Order of October 16, 2020, ECF No. 13, including by submitting a joint letter addressing certain topics and a proposed case management plan no later than the Thursday prior to the conference and by participating in an early mediation session at least two weeks prior to the conference.

The Clerk of Court is directed to update the docket to reflect appearances by all named Defendants and to terminate ECF No. 34.

SO ORDERED.

Dated: January 8, 2021
New York, New York



JESSE M. FURMAN
United States District Judge